

Executive Summary – Enforcement Matter – Case No. 52065
New Braunfels Utilities
RN102078011
Docket No. 2016-0429-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

South Kuehler WWTF, 1608 Coco Drive, New Braunfels, Comal County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 1, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$27,000

Amount Deferred for Expedited Settlement: \$5,400

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$21,600

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 25, 2016

Date(s) of NOE(s): March 10, 2016

Executive Summary – Enforcement Matter – Case No. 52065
New Braunfels Utilities
RN102078011
Docket No. 2016-0429-MWD-E

Violation Information

Failed to comply with permitted effluent limitations for total suspended solids, 5-day biochemical oxygen demand, total residual chlorine, total phosphorous, and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010232001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010232001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: James Boyle, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2527; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: N/A

Respondent: Douglas Draeger, Executive Director of Operations, New Braunfels Utilities, 263 Main Plaza, New Braunfels, Texas 78131

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	14-Mar-2016	Screening	21-Mar-2016	EPA Due	5-Jun-2016
	PCW	24-Mar-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	New Braunfels Utilities		
Reg. Ent. Ref. No.	RN102078011		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	52065	No. of Violations	2
Docket No.	2016-0429-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	James Boyle
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	20.0%	Adjustment	Subtotals 2, 3, & 7	\$4,500
---------------------------	-------	-------------------	--------------------------------	---------

Notes: Enhancement for four months of self-reported effluent violations.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	------	--------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	------	---------------------	-------------------	-----

Total EB Amounts: \$792,603
Estimated Cost of Compliance: \$11,000,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$27,000
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

0.0%	Adjustment	\$0
------	-------------------	-----

Notes:

Final Penalty Amount	\$27,000
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$27,000
-------------------------------	----------

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20.0%	Reduction	Adjustment	-\$5,400
-------	------------------	-------------------	----------

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$21,600
------------------------	----------

Screening Date 21-Mar-2016

Docket No. 2016-0429-MWD-E

PCW

Respondent New Braunfels Utilities

Policy Revision 4 (April 2014)

Case ID No. 52065

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078011

Media [Statute] Water Quality

Enf. Coordinator James Boyle

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 21-Mar-2016
Respondent New Braunfels Utilities
Case ID No. 52065
Reg. Ent. Reference No. RN102078011
Media [Statute] Water Quality
Enf. Coordinator James Boyle
Violation Number 1

Docket No. 2016-0429-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010232001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on February 25, 2016 and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate (5-day) biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and Escherichia coli ("E. coli") were also considered. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

62 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended for the quarters containing the months of August 2015 and December 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$792,603

Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

Economic Benefit Worksheet

Respondent New Braunfels Utilities
Case ID No. 52065
Reg. Ent. Reference No. RN102078011
Media Water Quality
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$11,000,000	31-Aug-2015	7-Feb-2017	1.44	\$792,603	n/a	\$792,603

Notes for DELAYED costs

Estimated cost to construct additional treatment capacity at the Facility. Date required is the initial date of noncompliance and the final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$11,000,000

TOTAL

\$792,603

Screening Date 21-Mar-2016
Respondent New Braunfels Utilities
Case ID No. 52065
Reg. Ent. Reference No. RN102078011
Media [Statute] Water Quality
Enf. Coordinator James Boyle
Violation Number 2

Docket No. 2016-0429-MWD-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010232001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on February 25, 2016, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		30.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

A simplified model was used to evaluate (5-day) biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids, total phosphorus, total residual chlorine, and E. coli were also considered. Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2 60 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two monthly events are recommended for the months of September 2015 and November 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$18,000

This violation Final Assessed Penalty (adjusted for limits) \$18,000

Economic Benefit Worksheet

Respondent New Braunfels Utilities

Case ID No. 52065

Reg. Ent. Reference No. RN102078011

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

New Braunfels Utilities
Docket No. 2016-0429-MWD-E
TPDES Permit No. WQ0010232001

Effluent Violation Table

Period	<i>E. coli</i>		Total Suspended Solids			Total Residual Chlorine	Total Phosphorus	BOD (5-day)		
	Daily Avg. Conc.	Daily Max. Conc.	Daily Avg. Conc.	Daily Max. Conc.	Daily Avg. Loading	Monthly Min. Conc.	Daily Max. Conc.	Daily Avg. Conc.	Daily Max. Conc.	Daily Avg. Loading
	Limit = 126 CFU/100 mL	Limit = 399 CFU/100 mL	Limit = 15 mg/L	Limit = 40 mg/L	Limit = 525 lbs/day	Limit = 1 mg/L	Limit = 8 mg/L	Limit = 10 mg/L	Limit = 25 mg/L	Limit = 350 lbs/day
August 2015	c	c	c	c	c	c	c	10.72	c	c
September 2015	c	1,732.9	c	c	c	c	10.6	11.09	c	c
November 2015	c	727	36.2	103	787.11	0.8	c	39.34	111.4	854.51
December 2015	157.82	524.7	16.71	c	c	c	c	30.94	44.75	689.51

BOD = biochemical oxygen demand
mg/L = milligrams per liter
E. coli = *Escherichia coli*

lbs/day = pounds per day
CFU = colony forming units
mL = milliliters

Avg. = average
c = compliant
Min. = minimum

Max. = maximum
Conc. = concentration

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600522957, RN102078011, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN600522957, New Braunfels Utilities **Classification:** SATISFACTORY **Rating:** 2.33

Regulated Entity: RN102078011, SOUTH KUEHLER WWTF **Classification:** SATISFACTORY **Rating:** 0.38

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 1608 Coco Drive, in New Braunfels, Comal County, Texas 78130

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

WASTEWATER PERMIT WQ0010232001

WASTEWATER EPA ID TX0067881

WASTEWATER AUTHORIZATION R10232001

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: March 21, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 21, 2011 to March 21, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: James Boyle

Phone: (512) 239-2527

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	April 19, 2011	(927520)
Item 2	May 18, 2011	(938850)
Item 3	June 17, 2011	(946224)
Item 4	July 20, 2011	(953493)
Item 5	August 30, 2011	(960124)
Item 6	September 20, 2011	(966176)
Item 7	October 13, 2011	(972198)

Item 8	November 17, 2011	(978357)
Item 9	November 23, 2011	(991436)
Item 10	December 19, 2011	(985159)
Item 11	February 17, 2012	(998793)
Item 12	March 19, 2012	(1004319)
Item 13	April 20, 2012	(1010881)
Item 14	May 15, 2012	(1017254)
Item 15	June 18, 2012	(1025040)
Item 16	August 16, 2012	(1038814)
Item 17	September 20, 2012	(1047706)
Item 18	October 17, 2012	(1065310)
Item 19	November 14, 2012	(1065311)
Item 20	December 14, 2012	(1065312)
Item 21	February 19, 2013	(1080798)
Item 22	March 15, 2013	(1090175)
Item 23	April 17, 2013	(1096553)
Item 24	May 17, 2013	(1107511)
Item 25	June 17, 2013	(1111153)
Item 26	July 19, 2013	(1118050)
Item 27	August 20, 2013	(1125846)
Item 28	September 17, 2013	(1130392)
Item 29	October 17, 2013	(1136159)
Item 30	November 20, 2013	(1141539)
Item 31	December 18, 2013	(1147995)
Item 32	February 19, 2014	(1161391)
Item 33	March 18, 2014	(1168038)
Item 34	April 17, 2014	(1175189)
Item 35	May 19, 2014	(1181382)
Item 36	June 17, 2014	(1188276)
Item 37	July 17, 2014	(1199942)
Item 38	August 15, 2014	(1199943)
Item 39	November 17, 2014	(1219323)
Item 40	December 15, 2014	(1225106)
Item 41	January 20, 2015	(1232001)
Item 42	February 13, 2015	(1243114)
Item 43	March 16, 2015	(1249481)
Item 44	April 15, 2015	(1256361)
Item 45	May 14, 2015	(1263096)
Item 46	June 16, 2015	(1270243)
Item 47	June 17, 2015	(1246413)
Item 48	July 20, 2015	(1277776)
Item 49	August 20, 2015	(1283953)
Item 50	November 16, 2015	(1302745)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 08/31/2015 (1291103)	CN600522957	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 09/30/2015 (1297300)	CN600522957	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 11/30/2015 (1309712)	CN600522957	
	Self Report? YES	Classification:	Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

4 Date: 12/31/2015 (1316485) CN600522957
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NEW BRAUNFELS UTILITIES
RN102078011**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2016-0429-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding New Braunfels Utilities (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 1608 Coco Drive in New Braunfels, Comal County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$27,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$21,600 of the penalty and \$5,400 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or

required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During a record review conducted on February 25, 2016, an investigator documented that the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010232001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and as shown in the effluent violation table below:

Effluent Violation Table										
Period	<i>E. coli</i>		Total Suspended Solids			Total Residual Chlorine	Total Phosphorus	BOD (5-day)		
	Daily Avg. Conc.	Daily Max. Conc.	Daily Avg. Conc.	Daily Max. Conc.	Daily Avg. Loading	Monthly Min. Conc.	Daily Max. Conc.	Daily Avg. Conc.	Daily Max. Conc.	Daily Avg. Loading
	Limit = 126 CFU/100 mL	Limit = 399 CFU/100 mL	Limit = 15 mg/L	Limit = 40 mg/L	Limit = 525 lbs/day	Limit = 1 mg/L	Limit = 8 mg/L	Limit = 10 mg/L	Limit = 25 mg/L	Limit = 350 lbs/day
August 2015	c	c	c	c	c	c	c	10.72	c	c
September 2015	c	1,732.9	c	c	c	c	10.6	11.09	c	c
November 2015	c	727	36.2	103	787.11	0.8	c	39.34	111.4	854.51
December 2015	157.82	524.7	16.71	c	c	c	c	30.94	44.75	689.51

BOD = biochemical oxygen demand
mg/L = milligrams per liter
E. coli = *Escherichia coli*

lbs/day = pounds per day
CFU = colony forming units
mL = milliliters

Avg. = average
c = compliant
Min. = minimum

Max. = maximum
Conc. = concentration

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: New Braunfels Utilities, Docket No. 2016-0429-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall, within 90 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010232001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, TX 78233-4480

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively,

the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date


For the Executive Director

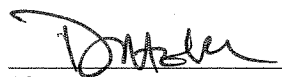
8/19/16
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

8/19/2016
Date

DOUGLAS DRAETOR
Name (Printed or typed)
Authorized Representative of
New Braunfels Utilities

Executive Director Operations
Title

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Order.

☐ If mailing address has changed, please check this box and provide the new address below: